

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ELC CASE NO. 12 OF 2004 (O.S)

JUMAA ABDALLA MWAZUZU (on his own and on behalf of all persons living on LR. 4752).....
.....PLAINTIFF

VERSUS

MARUMA HOLDINGS LIMITED.....1ST
DEFENDANT
COMMISSIONER OF LANDS.....2ND
DEFENDANT
AND
KHAMIS ATHMAN BWIKA & 29 OTHERS.....
.....APPLICANTS

RULING

1. By a notice of motion dated 16.08.2025 expressed to be filed pursuant to *Sections 1A, 1B and 3A of the Civil Procedure Act, Orders 12, 14, 17, 18, 16, 19, 20, 21, 22, 37, 40, 45, 47, 48, 49, 51 of the Civil Procedure Rules and all other enabling provisions of law*, the applicants sought the transfer of the suit to the Environment and Land Court at Kwale and a review of the ruling dated 03.07.2025 whereby this court dismissed an earlier application for review of consent judgment.

2. The application was based upon the grounds set out on the face of the motion and the contents of the supporting affidavit sworn by Khamis Athman Bwika on 16.08.2025. It was pleaded that the suit property was located in Kwale County hence this court had no jurisdiction to entertain the matter. It was further pleaded that the court erred by delivering the ruling dated 03.07.2025 whilst the applicants had a pending application dated 11.06.2025 for leave to amend their earlier application for review. The plaintiffs were of the view that there was a “gross violation” of the law and legal procedures hence the need to review the order of 03.07.2025.
3. The 1st defendant filed grounds of opposition dated 29.09.2025 in opposition to the application. It was pleaded that there were no valid grounds to warrant a review and that the order sought to be reviewed had not been exhibited. It was further contended that the grounds raised could only form the basis of an appeal and not a review.
4. The material on record shows that upon delivery of the ruling dated 03.07.2025 the court transferred the file to the Environment and Land Court at Kwale for any further

proceedings on the ground that the suit property was located within Kwale County and not on the basis that it had no jurisdiction to entertain the matter.

5. The court is of the view that upon making the transfer order the court ought to have downed its tools to enable the Environment and Land Court at Kwale to deal with any further proceedings including the instant application for review. The court is thus of the view that any further proceedings at Mombasa after 03.07.2025 were not regular.
6. Accordingly, the directions made on 18.09.2025 are hereby set aside *suo motu* to facilitate transmission of the court file to the Environment and Land Court at Kwale for disposal of any applications pending or filed after 03.07.2025. The court is thus inclined to allow prayer for transfer of the file only. Any other proceedings in the suit shall take place before the Environment and Land Court at Kwale.
7. For the foregoing reasons, the court makes the following orders;
 - a. ***The directions made on 18.09.2025 are hereby set aside suo motu.***

b. The Deputy Registrar shall transmit this file to the Environment and Land Court at Kwale to further proceedings.

Orders accordingly.

Ruling dated and signed at Mombasa and delivered virtually via Microsoft Teams on this **30th day of October, 2025.**

.....
Y. M. ANGIMA
JUDGE

In the presence of:
Gillian Court assistant
No appearance for plaintiff
Mr. Mwakisha for 1st defendant
No appearance for the 2nd defendant